

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Amendment)

815 KAR 10:070. Consumer fireworks retailer registration and fees.

RELATES TO: KRS 227.700, 227.702, 227.704, 227.708, 227.710, 227.715, 227.750, 227.752

STATUTORY AUTHORITY: KRS 227.715

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.715 ~~authorizes~~requires the department to promulgate administrative regulations establishing registration requirements and fees for any person, firm, co-partnership, non-profit, or business ~~intending~~intended to sell consumer fireworks in the Commonwealth. This administrative regulation establishes the registration forms, submission process, and fees for consumer ~~fireworks~~firework retailers.

Section 1. Filing of Annual Registration by Consumer Fireworks Retailers. (1) A retailer shall not offer for sale, sell at retail, or keep with intent to sell consumer fireworks without annually registering with the Kentucky State Fire Marshal.

(2) All retailers of consumer fireworks required by KRS 227.715 to annually register with the State Fire Marshal shall submit to the Division of Fire Prevention:

(a) A completed Fireworks Registration Application, Form FM 32-03 [~~Form FM 32-03~~];

(b) A nonrefundable annual registration fee as established in Section 2 of this administrative regulation; and

(c) Evidence that a current sales and use tax permit has been obtained from the Department of Revenue.

(3) Registration shall not be complete until a Fireworks Registration Application, payment of the appropriate fireworks retailer fee, and evidence of current sales and use tax permit are received and processed by the Division of Fire Prevention, State Fire Marshal.

Section 2. Fee Schedule for Registration of Consumer Fireworks Retailers. (1) The annual consumer fireworks retailer registration~~[application and renewal]~~ fees for each ~~[retail]~~ site shall be:

(a) Twenty-five (25) dollars for registration of retailers intending to sell consumer fireworks described in KRS 227.702(1);

(b) \$250 for registration of seasonal retailers intending to sell consumer fireworks described in KRS 227.702(2) and (3) between June 10th and July 7th, or between December 26th and January 4th; and

(c) \$500 for registration of permanent retailers whose primary source of business is the sale of consumer fireworks as defined in KRS 227.702(2) and (3).

(2) If registration is received less than fifteen (15) days prior to offering fireworks for sale at the site for which registration is submitted, an additional \$100 shall be added to the initial fee, in accordance with KRS 227.715(5).

(3) ~~All [Application, renewal, and late]~~ registration fees shall be nonrefundable.

Section 3. Payment of Fees. (1) A fee submitted to the Division of Fire Prevention, State Fire Marshal, shall be made payable to the Kentucky State Treasurer.

(2) If a fee is returned to the Division of Fire Prevention for nonpayment or insufficient funds, the Fire Marshal may revoke registration of the site in accordance with KRS 227.715(10), un-

less proof of financial institution error is provided.

Section 4. Incorporation by Reference. (1) Form FM 32-03, "Fireworks Registration Application", May 2020, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Fire Prevention, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KERRY B. HARVEY, Secretary

RICK W. RAND, Commissioner

APPROVED BY AGENCY: July 6, 2021

FILED WITH LRC: July 6, 2021 at 12:27 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 27, 2021 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021 at 11:59 p.m., eastern time. Send written notification of the intent to be head at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Benjamin Siegel, General Counsel, Department of Housing, Buildings and Construction, Mero Street, 1st Floor, Frankfort, Kentucky 40601, phone (502) 782-0604, fax (502) 573-1057, email benjamin.siegel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Benjamin Siegel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration requirements, forms, submission process, and fees for consumer fireworks retailers.

(b) The necessity of this administrative regulation: KRS 227.715 authorizes the department to promulgate administrative regulations establishing registration requirements and fees for any person, firm, co-partnership, non-profit, or business intending to sell consumer fireworks in the Commonwealth. This administrative regulation establishes the registration forms, submission process, and fees for consumer fireworks retailers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.715 authorizes the department to promulgate administrative regulations establishing the registration requirements and fees for any person, firm, co-partnership, non-profit, or business intending to sell consumer fireworks in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the registration requirements, forms, submission process, and fees for consumer fireworks retailers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary

of:

(a) How the amendment will change this existing administrative regulation: This amendment makes grammatical and technical edits in order to clarify the administrative regulation and make it more user friendly.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify the administrative regulation and to make it more user friendly.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.715 authorizes the department to promulgate administrative regulations establishing the registration requirements and fees for any person, firm, co-partnership, non-profit, or business intending to sell consumer fireworks in the Commonwealth. This amendment makes grammatical and technical edits in order to clarify the administrative regulation and make it more user friendly.

(d) How the amendment will assist in the effective administration of the statutes: This amendment makes grammatical and technical edits in order to clarify the administrative regulation and make it more user friendly.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Consumer fireworks retailers, entities who intend to become consumer fireworks retailers, and the Department of Housing, Buildings and Construction, Division of Fire Prevention.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in Question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not impose any additional requirements on any of the entities identified in question (3).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not impose any additional costs on any of the regulated entities identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): 815 KAR 10:070 will be more clear and user friendly.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no anticipated initial additional costs to administer this amendment.

(b) On a continuing basis: There are no anticipated additional costs to administer this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this amendment is anticipated to result in no additional costs to the department. Any cost resulting from this amendment will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding to the department for implementation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees directly or indirectly increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all consumer fireworks retailers and future registrants will be subject to the same amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Fire Prevention will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 227.715.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenue for the state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None